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Robert E. Corbin

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ARIZONA ATTORNEY GENERAL

June 15, 1984

Mr. Steven P. Suskin
Chief Deputy County Attorney
La Paz County Attorney's Office
1713 Kofa Avenue - Suite J
Post Office Box 709
Parker, Arizona 85344

Re: I84- 083(R84-089)

Dear Mr. Suskin:

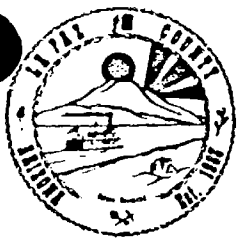
We have reviewed your opinion dated May 2, 1984 to the La Paz County School Superintendent regarding the ramifications of consolidation of two school districts. We concur with your conclusions that (1) the consolidation is effective upon canvass of the vote, (2) the new governing board is appointed pursuant to A.R.S. § 15-430, (3) the cost of the election is to be borne by the districts, and (4) the property and indebtedness of the two districts becomes the property and indebtedness of the new district.

Sincerely,

Bob Corbin

BOB CORBIN
Attorney General

BC:VBW:jb



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DON BENNETT MOON
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R84- 089

May 2, 1984

O P I N I O N

Mary J. Weil
La Paz County School Superintendent
1600 Laguna Avenue
Post Office Box 1147
Parker, Arizona 85344

EDUCATION OPINION
ISSUE NO LATER THAN:

8/7/84

Re: Salome/Vicksburg School Consolidation

Dear Mary:

During the pendency of the election on the above-referenced matter numerous questions have arisen from your office as well as the two school districts involved regarding school district consolidation and the legal effect thereof. This office has delayed its opinion on these questions until after the election to avoid the appearance of bias on the question of consolidation. We, however, are now prepared to address the pertinent questions raised.

The consolidation here is authorized by A.R.S. Sec. 15-459. A.R.S. Sec. 15-459(A) states, "Two or more school districts may be consolidated into one." Thus, a consolidation differs from a merger or annexation in that two or more entities are dissolved and a new entity takes its place.

This opinion does not review the petition process necessitating the call of the election on this matter, A.R.S. Sec. 15-459(B), nor the validity of the election held in this matter. This office is informed that a majority of the voters in the respective districts approved of the consolidation at the April 24, 1984, election and we will assume that creation of the newly consolidated district was valid. In addition, a canvass of those election results on May 1, 1984, confirmed that a majority of voters in both districts favored consolidation.

Accordingly, the first question to be resolved is the effective date of the new district. A.R.S. Sec. 15-459(F) states, in pertinent part, as follows:

"If a majority of the votes cast in each district favors consolidation, the districts are consolidated and become one district."
(Emphasis Added.)

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The plain meaning of this provision is that the new district becomes effective at the time of the canvas if a majority is found to have voted in favor of the consolidation. Furthermore, the great weight of authority from other jurisdictions is that the consolidation becomes effective immediately.

"In the absence of any statute providing otherwise, the creation or alteration of a school district or other local school organization becomes effective immediately on completion of the proceedings therefore or on the making of a proper order, if no othertime is specified therein. 29 C.J.S. Schools and School District, Sec. 47.

While specific effective dates are provided for the case of a merger or other boundary change, See, A.R.S. Sec. 15-460(k), the statute on consolidation is silent relative to a set date. Consequently, the new district is effective immediately upon a canvass of the vote confirming a majority of voters in both districts approved the consolidation.

In this case the vote was canvassed May 1, 1984, and the necessary majority was confirmed pursuant to A.R.S. Sec. 15-459(F). Accordingly, the new consolidated district became effective on May 1, 1984.

A.R.S. Sec. 15-430 sets forth the procedure for appointment of the governing board of a newly consolidated district. The County School Superintendent appoints a three member board from among the members of the previously existing governing boards. A.R.S. Sec. 15-430(A). Those appointed members will serve until January 1, 1985. Id., 15-430(B). The first governing board member elections will be held at the general election in November, 1984. At that time all three positions on the Board will be filled. Id., in an election held pursuant to A.R.S. Sec. 15-424.

The cost of the consolidation election shall be charged against the funds of the two school districts involved A.R.S. Sec. 15-406(A).

The property of the prior Salome and Vicksburg districts is now the property of the newly consolidated district. A.R.S. Sec. 15-322(B). This same rule obtains with regard to balances and defecits in the previous funds of each of the districts as well as bonded indebtedness, if any exists. Id. In addition, the new governing board is entitled receive all property, accounts and records from the two prior governing boards. Id.

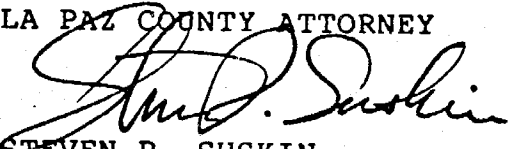
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No doubt, numerous other questions will arise concerning the procedure of implementing the consolidated districts. The new governing board will be bound by the same law the previous governing boards adhered to. We will be receptive to further requests for opinion as the occasion arises. The newly appointed board must meet and determine what, if any, legal issues remain unresolved.

Should there be any questions, please do not hesitate to call.

Sincerely,

DON BENNETT MOON
LA PAZ COUNTY ATTORNEY


STEVEN P. SUSKIN
Chief Deputy County Attorney

SPS/kr